

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PRIORITY SEND

CIVIL MINUTES -- GENERAL

Case No. **CV 06-6312-JFW (MANx)**

Date: August 29, 2007

Title: Herbalife International, Inc. -v- National Union Fire Insurance Co. of Pittsburgh, PA

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

Shannon Reilly
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

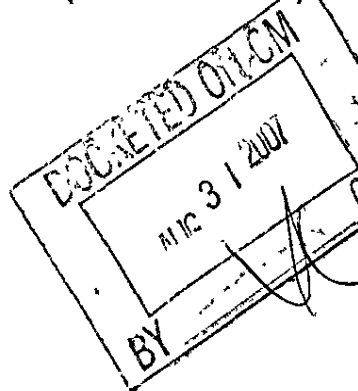
None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS (IN CHAMBERS):

**ORDER TO SHOW CAUSE WHY ACTION SHOULD
NOT BE STAYED OR DISMISSED;**



**ORDER CONTINUING HEARING ON DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**
[filed 8/15/07; Docket No. 68];

**ORDER CONTINUING HEARING ON PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**
[filed 7/12/07; Docket No. 59]

Upon review of the briefs on the motions for summary judgment, it appears to the Court that this action may be premature. As an initial matter, it appears that under the terms of the Executive and Organization Liability Insurance Policy ("D&O Policy") at issue in this action, Defendant National Union does not have a duty to defend Plaintiff Herbalife in an action involving potentially covered claims. Additionally, the D&O Policy contains a \$1,000,000 self-insured retention which Defendant National Union claims has not yet been satisfied. See Defendant's Motion at 2 n.2.

Accordingly, the Court hereby orders both parties to show cause why this action should not be dismissed or stayed on the grounds that the action is not ripe for adjudication. The parties shall file simultaneous briefs in response to the Order to Show Cause no later than September 7, 2007.

In light of the foregoing, the Court **CONTINUES** the hearing on Defendant's Motion for Summary Judgment and Plaintiff's Motion for Partial Summary Judgment, currently on calendar for September 10, 2007, to September 24, 2007 at 1:30 p.m.

IT IS SO ORDERED.

The Clerk shall serve a copy of this Minute Order on all parties to this action.

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